

Table 1.

Chapter 246-290 WAC Changes Under Consideration to reflect new Municipal Water Law (MWL) Requirements¹

Citation: 246-290-	Description of Potential Change	Issue/Comment	MWL Section
010	Define or modify existing definitions for certain terms and phrases such as : <ul style="list-style-type: none">• municipal water supplier• municipal water supply purposes• service area• retail service area• retail water service• expanding public water system• service connection• system capacity• system physical capacity• duty to serve	Several terms and phrases are used in the MWL that may result in confusion among the regulated community and inconsistent regulation implementation by DOH staff if the terms are not defined in regulation.	1,4,5,8,9,13,14,15
100(1)	Change language to reflect Water System Plan (WSP) approval standard related to local governments consistency requirements.	Current language may not reflect the approval standard expected by the MWL	8
100(4)	Add a sub-section that provides specific criteria describing the process and documentation required to demonstrate	Regulated community is confused about how to meet the local government consistency	8

Examples of the types of regulatory changes that may be necessary and might or might not ultimately be made. There has been no legal review of these examples to determine if they are needed to implement the Municipal Water Law or if additional changes may be needed.

Citation: 246-290-	Description of Potential Change	Issue/Comment	MWL Section
	consistency with local comprehensive plans, development regulations, and watershed plans.	requirements of the MWL. Also may need to add timeframe for obtaining state and local government sign-off.	
100(4)	Add reclaimed water evaluation requirements	The MWL added a specific provision that larger systems evaluate opportunities for reclaimed water. This change would simply make SBOH rules consistent with new law.	13
100(4)(a)(iv)	Add more detail about service area maps to address retail and other service areas that will be approved.	Certain water right and local government consistency provision require clear identification of geographic areas (retail and other service areas) that the utility plans to serve. Current regulations do not provide clear direction concerning service area delineation.	5
100(4)(d)(vi), & 100(7)	Add more detail about the specific information that must be included in a water right self assessment.	Certain provisions of the MWL provide water right benefits to utilities through approval of their WSP's. This linkage re-emphasizes the importance of accurate water right self-assessments.	4,5
105(1)	Change language to incorporate local government consistency expectations for approvals of Small Water System Management Programs (SWSMPs).	Current language may not reflect the approval standard expected by the MWL	5

Citation: 246-290-	Description of Potential Change	Issue/Comment	MWL Section
105(4)	Add water right self assessment, capacity determination, and local government plan/ordinance consistency determination	Certain provisions of the MWL provide water right benefits to utilities through approval of their SWSMP's. For this reason SWSMP's are required by the MWL to go through a coordinated approval process with Ecology. In order to be implemented in a manner consistent with the intent of the legislature, SWSMP's will need to include the listed elements.	5
110(4)(e), 120 (7), 130(3)(b), & 132(3)(b)(iii)	Add more detail about the specific information that must be included in a water right self assessment.	Certain provisions of the MWL provide water right benefits to utilities through approval of their projects that increase capacity This linkage re-emphasizes the importance of accurate water right self assessments.	4,5

Table 2.

**Chapter 246-290 WAC-Section 2. Planning and Engineering Regulations.
Process and Technical Changes Being Considered²**

Citation: 246-290-	Description of Potential Change	Issue
100(4)(d)(v)	Delete all language after “Water shortage response plan”	Current regulations require a water shortage plan if a water system has experienced a shortage or anticipates one within the next 6 years. Experience with droughts, and now threats of terrorism suggest that virtually all systems have either experienced a shortage or should anticipate one and therefore should develop a water shortage response plan.
100 (4)	Add “Cross-connection control (CCC) in accordance with WAC 246-290-490.”	Existing language in WAC 246-290-490(2)(e) requires a written description of the CCC program to be included in the WSP. The proposed change would make the sections consistent.
100(9) or (10)	Modify either 100(10) or 100(9) to be consistent with one another.	Section 100 (10) indicates that the WSP should be “submitted” every 6 years, while 100 (9) indicates that plan “approval” remains in place for 6 years. DOH intent is to have a plan “approved” every 6 years rather than just “submitted.”
105(3)	Add requirement for approval of SWSMPs for State Revolving Fund (SRF) funding in WAC 246-290-105 (3).	DOH requires this already, and it is implied in 105 (1)(b). The change would be for clarity.
105(4)	Add elements: operator certification and compliance status.	These elements are necessary for a small system to address in order to assess “capacity” and to be consistent with current operating permit and operator certification regulations.

The changes being considered may or may not ultimately be made. There has been no legal review of these changes

120(2) and (9)	Modify to make clear that construction of a project cannot be started until receiving written approval from DOH	Some purveyors by reading section (9) wrongly believe that they may begin to construct a project and seek as-built construction after the fact.
125 (1)	Add (e) replacement of an existing water main with a new water main of equal or larger size.	Replacement of old, small water mains by utilities that do not satisfy 246-290-125 (2) is routinely performed. This change permits a purveyor that already has the authority to replace an existing 6 inch main with a new 6 inch main permission to replace an existing 4 inch main with a new 6 inch main and not have to submit engineered construction documents to the department for review, approval, and a fee.
130(3)(c)(i)	Clarify what is meant by hydrogeologic assessments.	Clarification is needed to continue to tailor the extent of the assessment to the type of source that is being considered, while maintaining consistent implementation of the requirement through- out the state.
130(8)(a) and (9)	Delete these sections related to source approval that specify when a purveyor shall receive approval or may receive conditional approval.	These sections provide direction to DOH rather than water systems as to when to approve sources and are not needed to implement section 130.
130(10)	Amend to make a new section	The section deals with bottled water and ice plants and should be in a separate section .
132(4)(a)	Change “water system management plan” to “water system management program”	Corrects an error in terminology
135(2)(d)	Amend to apply to only purveyors with signed covenants over sanitary control areas	The current regulation requires permission from DOH for certain activities in a sanitary control area. An amendment should be considered to eliminate possibility of DOH being held responsible for giving “permission” to build.